



PRE-TESTING AGREEMENT

Subject Property to be Tested:

Testing Date: Testing Started: () AM () PM

Client(s) Name: Testing Concluded: () AM () PM

Client(s) Present Address:

Tested By:

PLEASE READ THIS DOCUMENT AND ATTACHED ADDENDUM(S) CAREFULLY. IT CONTAINS PROVISIONS THAT LIMIT CERTAIN OF YOUR RIGHTS, INCLUDING YOUR RIGHT TO MAINTAIN A COURT ACTION. IF YOU HAVE ANY QUESTIONS REGARDING THE TERMS OF THIS PRE-TESTING AGREEMENT YOU SHOULD DISCUSS THEM WITH THE COMPANY PRIOR TO SIGNING THIS AGREEMENT.

LIMITATIONS AND EXCLUSIONS OF THE RADON TESTING AND REPORT

CLIENT AND COMPANY (Company is also defined to include any and all persons who perform the contracted-for testing as an employee or independent contractor of the Company) agree to the following terms and conditions:

1. Client Obligations and Permission to Access Subject Property: The Client agrees to notify the occupants of the Subject Property of the importance of proper testing conditions, including: that the radon test must be conducted for a minimum of 48 hours (24 hours if using a computerized radon monitor); that it is important to maintain closed-house conditions for at least 12 hours before the beginning of the test and during the entire test period; that if the house has an active radon-reduction system, the occupants make sure the vent fan is operating properly; that the occupants are permitted to operate the home's heating and cooling systems normally during the test period; and that the occupant cannot disturb the test device(s) at any time during the test. The Client understands that these issues can detrimentally affect the Company's ability to provide accurate testing results to the Client. The Client warrants that permission has been secured for the Company to enter the Subject Property and perform the radon test.

2. Standards of Practice: The Company agrees to perform a short-term radon test using a radon measurement device approved by Your State which will be exposed to the air in the home at the Subject Property for a specified period of time and then sent to a laboratory approved by Your State for analysis following the testing procedures and protocols established by the laboratory and/or Your State. The Company and/or the laboratory will provide the results of the radon testing to the Client on a form approved by Your State. The Client understands that the results of the radon test are based on the conditions existing when the test is performed and that prior and subsequent test results could be different due

to changes in the weather, barometric pressure, living conditions or other unforeseen factors or conditions beyond the control of the Company. If a more accurate test is desired, the Client should consider long-term testing.

3. **BINDING ARBITRATION PROVISION. PLEASE READ CAREFULLY:** Any dispute, controversy, interpretation, or claim, including claims for, but not limited to, breach of contract, any form of negligence, fraud or misrepresentation, and/or any violation of any law, statute, regulation, ordinance or any consumer protection statute, or any other theory of liability arising out of, from or related to this Pre-Testing Agreement or arising out of, from or related to the radon test or report shall be submitted to final and binding arbitration as conducted by and according to the Rules and Procedures of Construction Dispute Resolution Services, LLC. The decision of the arbitrator appointed by Construction Dispute Resolution Services, LLC shall be final and binding and judgment on the decision may be entered in any Court of competent jurisdiction. **NOTICE: YOU AND WE WOULD HAVE A RIGHT OR OPPORTUNITY TO LITIGATE DISPUTES THROUGH A COURT AND HAVE A JUDGE OR JURY DECIDE THE DISPUTES BUT HAVE AGREED INSTEAD TO RESOLVE DISPUTES THROUGH BINDING ARBITRATION.**

4. **Disclaimer of Warranty:** The Client understands that the radon test and report do not, in any way, constitute a guarantee, warranty of merchantability or fitness for a particular purpose, express or implied warranty, or an insurance policy. Additionally, neither the radon test nor the report is a substitute for any real estate transfer disclosures that may be required by law.

5. **Notice of Claims:** The Client agrees that any claim for failure of the Company to fulfill its obligations under this Agreement shall be made in writing to the Company upon discovery. The Client also agrees to allow the Company ten (10) days to come to the Subject Property to inspect and evaluate any condition complained of by the Client to the Company and not to make, or allow others to make, any alteration to the claimed condition until the Company has had the opportunity to inspect and evaluate the claimed condition, except in case of emergency.

6. Choice of Law: This Pre-Testing Agreement shall be governed by the laws of the state where the radon testing services are being provided. If any portion of this Agreement is found to be invalid or unenforceable by any court or arbitrator, the remaining terms shall remain in force between the parties.

7. LIMITATION OF LIABILITY. PLEASE READ CAREFULLY: Client understands and agrees that the Company is not an insurer and that the payment for the radon test and report is based solely on the value of the service provided by the Company in the performance of the radon test as described herein. Client further understands and agrees that it is impracticable and extremely difficult to fix actual damages, if any, which may result from a failure to perform such services. Thus, the client agrees that the sole and exclusive remedy for any claims against the Company, including claims for, but not limited to, breach of contract, any form of negligence (except gross negligence), fraud or misrepresentation, and/or any violation of any law, statute, regulation, ordinance or any consumer protection statute, or any other theory of liability arising out of, from or related to this Pre-Testing Agreement or arising out of, from or related to the radon test or report, is limited to an amount equal to the testing fee multiplied by two (2), as liquidated damages and not as a penalty. The Client releases Company from any and all additional liability, whether based on contract, tort, or any other legal theory. There will be no recovery for consequential damages. The Client understands that the performance of the services without this limitation would cost substantially more than the fee paid for this test. The Client understands that he/she/we/they is/are free to consult with another professional if the Client does not agree to this provision.

8. LIMITATION ON TIME TO BRING LEGAL ACTION. PLEASE READ CAREFULLY: Any legal action, including claims for, but not limited to, breach of contract, any form of negligence, fraud or misrepresentation, and/or any violation of any law, statute, regulation, ordinance or any consumer protection statute, or any other theory of liability arising out of, from or related to this Pre-Testing Agreement or arising out of, from or related to the radon test or report must be brought within one (1) year from the date of the radon test, regardless of when the Client first discovers the facts supporting such possible claims as identified herein. Failure to bring said action within one (1) year of the date of services shall

be a complete bar to any such action a full and complete waiver of any rights, actions or causes of actions that may have arisen thereon. This time period may be shorter than otherwise provided by State law.

9. Entire Agreement: This Pre-Testing Agreement and any subsequent report issued to the Client by the Company represent the entire agreement between the parties. No oral agreements, understandings, or representations shall change, modify or amend any part of this Agreement. No change or modification shall be enforceable against any party unless such change or modification is in writing and signed by the parties and supported by valid consideration. This Agreement shall be binding upon and insure to the parties hereto and their spouses, heirs, executors, administrators, successors, assigns, and representatives of any kind whatsoever. This service is being performed for the exclusive use and benefit of the Client. The testing, including the report, is not to be transferred to, utilized or relied upon by any other person or entity without prior written permission of the Company.

10. Client's Agreement & Understanding of Terms: By signing this Agreement, the undersigned Client(s) agree that he/she/they have read, understand, and agree to all of the terms and conditions on all pages of this Agreement, including the provisions for arbitration, and limitations and exclusions, and agree to pay the fee shown according to the terms above. The Client understands that the Client has a right to have an attorney of the Client's choice review this Agreement before signing it. The Client understands that if the Client does not agree with any of the terms, conditions, limitations and/or exclusions set forth in this Agreement, the Client is free not to sign and/or execute it. The Client understands that the Client may negotiate with and/or retain another company to perform the services contemplated by this Agreement. The Client further understands that, should the Client not agree to the terms and conditions set forth in this Agreement, the Client may negotiate with the Company for different terms and conditions.

The total fee for our service(s) is \$_() 239.00 without inspection \$ () 199.00 with the inspection . Payment is expected before or at the time of provision of the services. All expenses incurred in collecting any overdue payments or returned checks are the responsibility of the Client.

Payment is made by: () Zelle to 404.410.1109 () Cash / Money Order No. () Credit Card () Invoice

REPORT DISTRIBUTION: The Client controls the distribution of all reports and authorizes the Company to release copies of the report or summary to the following: () CLIENT () CLIENT'S Real Estate Agent () CLIENT'S Attorney () Other:

Client's Signature:

Date: _____

Client's Name:

Please Print

Inspector's Signature:

Date: _____

Inspector's Name: _Theodore

Brown _____

Please Print